

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20540

*Martin**28424***FILE:** B-213872.2**DATE:** June 1, 1984**MATTER OF:** Roth-Radcliffe Company, Inc.**DIGEST:**

1. Reasonable basis exists to cancel an RFP where the contracting agency discovers that its needs can be met through a less expensive approach than that reflected by the solicitation's evaluation criteria.
2. Offerors can compete on an equal basis only if they know in advance the basis on which their proposals will be evaluated. Agency reasonably concluded that award could not be properly made under an RFP which expressed a preference for proposals for lease of property with janitorial services and utilities included, but also invited proposals for lease of property without such services and utilities, and did not inform the offerors how proposals would be evaluated.

Roth-Radcliffe Company, Inc. protests the cancellation of request for proposals (RFP) No. R4-83-11 issued by the Forest Service, Department of Agriculture for lease of office space. Roth-Radcliffe contends that its proposal, properly evaluated under the terms of the solicitation, should have been selected for award, and that the agency's cancellation of the solicitation was unjustified.

We deny the protest.

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Background and Protest

The RFP was issued on July 1, 1983 and, as amended, called for proposals by August 19. The evaluation criteria allotted 100 points to technical factors and 10 points to price, and stated that "relocation costs and price per sq. ft. are the elements of this criteria." Although the RFP stated a preference for proposals for fully serviced property (proposals with a rental price that included janitorial services and all utilities), it also invited proposals for rentals with or without janitorial services and utilities.

Of the five proposals received, four were found to be within the competitive range. After discussions, the four offerors were informed orally that the best and final offers would be evaluated with price being given significantly more weight than indicated in the RFP. The agency, without amending the solicitation or informing the offerors in writing of the change in the weighting of price, then called for best and final offers.

Roth-Radcliffe's best and final offer of October 14, 1983 proposed a price of \$160,707 for a 5-year lease for fully serviced property, and an alternate 10-year lease at the same annual rate. By letter dated October 17, the firm also proposed \$148,707 for partially serviced property without utilities. Mayden and Mayden proposed \$94,222 for unserviced property and an alternate price of \$120,219.70 for fully serviced property. One other offeror proposed a price of \$166,275 for partially serviced property (excluding janitorial services), and the last offeror proposed a price of \$121,000 for partially serviced property (excluding electricity).

The Forest Service evaluated all price proposals on an unserviced basis. To so evaluate an offer for partially serviced or fully serviced property, the agency reviewed the offeror's cost and pricing data and deducted from the firm's price proposal the estimated costs of the included services. The lowest evaluated price then was given the stated maximum of 10 points; the evaluated prices of the other offerors were divided by the lowest one, and each result was multiplied by 10 to reach the cost points for each proposal. The agency incorrectly recorded

Roth-Radcliffe's price of \$160,707 for its proposed 5-year lease as \$191,282 and conducted its evaluation based on the incorrect figure, although the agency insists that this error had no bearing on the agency's selection decision. Roth-Radcliffe received 76.1 points for technical factors and a total of 83.1 points including those for price. Mayden and Mayden received 51.9 points for technical factors and 61.9 total points including price. Under this formula, Roth-Radcliffe received the most total points regardless of whether the correct figure for its price was used.

The contracting officer concluded that award should go to Mayden and Mayden because of its low price. Roth-Radcliffe then protested to our Office, contending that under the stated evaluation criteria it should have received the award. This protest led to a full review by the Forest Service, which determined that the RFP was defective because it placed too little weight on price. The agency therefore canceled the solicitation and we closed the protest file without a decision. Shortly thereafter, Roth-Radcliffe protested the cancellation, contending that no cogent and compelling reason existed for such action and again insisting that it be awarded the contract under the RFP.

Reasons for Cancellation

Although the agency originally stated as its reason for the cancellation that the solicitation did not properly indicate the significance of price, its review after the protest revealed additional deficiencies that it contends support the cancellation. In this respect, the purpose of this Office's inquiry is to determine whether, under all the circumstances, including those discovered after a cancellation is effected, the agency complied with the applicable statutes and regulations. See Universal Communications Systems, Inc.; Fisk Telephone Systems, Inc., B-198533, April 27, 1981, 81-1 CPD ¶ 321.

The Forest Service points out that although proposals for unserviced, partially serviced and fully serviced property were invited, with a stated preference for proposals for fully serviced property, the solicitation did not inform the offerors how such proposals would be evaluated against one another. Further, the agency states that although the solicitation did not specifically indicate

for purposes of price evaluation that the cost of janitorial services and utilities would be excluded, the evaluators in fact evaluated proposals on that basis and thereby made unsupported determinations as to what unserviced proposal prices would be from those offerors who did not submit proposals for unserviced property. All of this convinced the agency that the proposals had not been and could not be evaluated on a common basis.

Analysis

We think the agency had reasonable concerns after receipt of proposals that the weight given to price in the solicitation's evaluation criteria did not, in fact, properly reflect the actual importance of price to the Forest Service in the leasing of office space. We have upheld an agency's cancellation of an RFP where the agency decides that the government's needs can be met through a less expensive approach than that called for in the solicitation. See Science Information Services, Inc., B-205899, June 2, 1982, 82-1 CPD ¶ 520; Honeywell Information Systems, Inc., B-193177.2, Dec. 6, 1979, 79-2 CPD ¶ 392. It clearly would be as wrong to award Roth-Radcliffe a contract at a price that the government believes is unnecessarily high, simply because the firm prevailed in the competition that was conducted, as to award Mayden and Mayden a contract merely to save money, since Mayden and Mayden was not the best offeror when evaluated against the basis for the competition.

Moreover, the lack of information in the solicitation as to how the invited proposals would be evaluated led the evaluators to make assumptions as to what the offeror's actual prices would have been for unserviced property. For example, the offerors' estimated costs, in the offerors' cost and pricing data, for janitorial services ranged from \$12,500 to \$25,000; the estimated costs for heating and supplies ranged from \$500 to \$16,500; and estimated air conditioning costs ranged from \$500 to \$16,000. As stated above, in evaluating proposals the Forest Service simply deducted these estimated costs from the fully and partially serviced proposal prices to arrive at the unserviced prices for evaluation and award purposes. We think it is obvious, however, that estimates in a firm's cost and pricing data for services included in an offer but not separately priced do not necessarily represent what the firm would have proposed for those services.

and, it is not even clear from the RFP that the the proposals would be evaluated only on the basis of unserviced property. In this connection, Roth-Radcliffe point out that section 1.04 of the solicitation, entitled Evaluation of Proposals, states that rental rate is "rental price excluding utilities, cleaning and janitorial services," which Roth-Radcliffe argues indicates that offers were to be evaluated without utilities or services.

Section 1.04 A(3), to which Roth-Radcliffe refers, actually provides, "Annual rate not exceed 15 percent of fair market value of the property. Rental rate is rental price excluding utilities, cleaning, and janitorial services." The Forest Service asserts that this provision was originally derived from section 322 of the Economy Act of 1932, 40 U.S.C. § 278a (1982), and merely informs offerors how the contracting officer would determine compliance with the mandated rental payment limitation of 15 percent of fair market value. In view of the fact that proposals were invited on a number of bases with no explanation as to how offers on different bases would be evaluated in relation to one another, we believe that, at best, the provision merely added to the confusion concerning the evaluation terms of the solicitation.

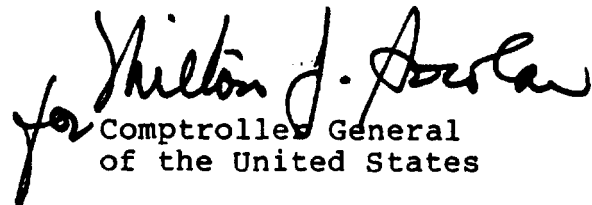
Offerors can compete on equal terms--a fundamental requirement in any government procurement--only if they know in advance the basis on which their proposals will be evaluated. Servrite International, Ltd., B-210082, July 19, 1983, 83-2 CPD ¶ 100. Evaluations under an RFP therefore must be founded on information contained in the offerors' proposals, and each firm evaluated on a common basis under a scheme expressly set out in the RFP for selecting the successful offeror. The Management and Technical Services Company, a subsidiary of General Electric Company, B-209513, Dec. 23, 1982, 82-2 CPD ¶ 571. That was not the case here because of the RFP deficiencies, so that award under the issued solicitation would not have been proper.

The Forest Service thus had a reasonable basis for its decision to cancel the RFP, which is the criterion for cancellation in a negotiated procurement. Management Services Incorporated, B-197443, June 6, 1980, 80-1 CPD ¶ 394. We understand that the agency intends to issue a new solicitation, even though we further understand that the procurement also has become urgent. The changes proposed by the

Forest Service for the new solicitation relate primarily to the evaluation criteria and the basis for award, with substantially more weight being given to price. However, the fundamental purpose and scope of the procurement has not changed; a sufficient number of offerors responded initially so that adequate competition is present; and it appears from the record that the scope of competition would not have been different originally if the RFP had given price more importance than it did. Thus, we think the Forest Service, instead of issuing a new solicitation and suffering the delays inherent in that process, could also reinstate and amend the original RFP and afford the initial offerors an opportunity to respond to that.

Finally, we deny Roth-Radcliffe's claim for proposal preparation costs because of our finding that the agency did not act arbitrarily in not making an award to that firm under the initial solicitation. See Holmes & Narver Services, Inc., B-208652, June 6, 1983, 83-1 CPD ¶ 605.

The protest is denied.

for 
Comptroller General
of the United States